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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,884	04/09/2007	Thomas Aleksander Henrik Von Preyss	742111-175	7405
25570 7590 11/29/2007 ROBERTS, MLOTKOWSKI & HOBBS P. O. BOX 10064 MCLEAN, VA 22102-8064			EXAMINER MANSKAR, KRISTEN	
			ART UNIT 2875	PAPER NUMBER
			NOTIFICATION DATE 11/29/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/597,884

Applicant(s)

VON PREYSS, THOMAS
ALEKSANDER HENRIK

Examiner

Kristen A. Manskar

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-21, 25, and 26 is/are rejected.
- 7) ☒ Claim(s) 22-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/10/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because the length of the abstract exceeds the range of 50-150 words. Correction is required. See MPEP § 608.01(b).

The Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p) (5) because they do not include the following reference sign(s) mentioned in the description: 486.

The drawings are objected to as failing to comply with 37 CFR 1.84(p) (5) because they include the following reference character(s) not mentioned in the description: 480. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should

include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-17, 19-21, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lueken, et al. (Patent 5,908) in view of DeGuisseppi (Patent 5,522,769), hereafter referred to as Lueken and DeGuisseppi, respectively.

With respect to claim 14, Lueken discloses an apparatus for illumination comprising at least one housing (20) suited for in ground use (figure 2); said housing (20) containing at least one lamp (175) which is surrounded by a reflector (165), a light changer (Column 4, Lines 48-62), and control means (Column 4, Lines 25-35) for controlling the at least one lamp and light changer.

Lueken does not explicitly disclose a housing having an outer casing formed within at least one opening which is covered by a diaphragm which is moisture permeable in an outward direction for transmission of moisture from the inside of the housing to the outside, but which is water tight in a direction from the outside to the inside.

DeGuisseppi discloses a diaphragm used within an electrical device wherein the diaphragm is placed over an opening which is covered by a diaphragm which is moisture permeable in an outward direction for transmission of moisture from the inside of the housing to the outside, but which is water tight in a direction from the outside to the inside (Column 3, Line 64-Column 4, Line 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the diaphragm of DeGuisseppi in the illumination apparatus of Lueken for the benefit of enabling moisture that may have leaked through a seal to direct moisture out of the device.

Regarding claim 15, Lueken discloses an illuminating apparatus wherein there is at least one opening in the casing that is located in a lower part of the casing and is directed downwards (see opening between characters 66 and 76 in Figure 2).

With respect to claim 16, Lueken discloses an apparatus wherein the casing is located in a lower part of the casing in a vertical direction (see opening between characters 66 and 76 in Figure 2).

In reference to claim 17, Lueken discloses an illuminating apparatus further comprising at least a changeable means for forming the light beam (Column 4, Lines 48-62). Note that the changeable means is an angular light changing means.

Regarding claim 19, Lueken discloses an apparatus further comprising means for at least one of panning and tilting the light beam (Column 5, Lines 9-15).

With regard to claim 20, Lueken discloses an illumination apparatus wherein the apparatus is divided into a first section (20) and second section (30), the first section containing a lamp chamber (Figure 2), and the second section containing power and data connections and at least one of electric power components and control circuits of the control means and servo motors (Figures 2 and 10).

Regarding claim 21, Lueken discloses an apparatus wherein the first section of the housing (20) comprises a lamp chamber having a bottom wall (79), wherein the second section of the housing is located below said bottom of the wall and contains a number of separate chambers (Figure 2), wherein a first separate chamber contains said electronic power components (65), where a smaller second of second chambers contains control circuits for controlling servo motors adapted for adjustment of at least one of the shape, color, pan, and angle of inclination of the light beam (Column 5, Lines 9-15) wherein a third of said separate chambers contains said power connections (105), and wherein a forth of said separate chambers contains said data connections (see chamber disposed between second and third chamber that contains data connections (90)).

With respect to claim 25, Lueken discloses an illumination apparatus wherein the first and second sections are separated (Figure 2), and wherein the cables connect the first and second section (77).

Lueken does not explicitly disclose an illumination apparatus wherein the first and second sections are located beside the first section for providing access between the first and second sections.

Lueken discloses all the limitations of the claims, except for an illumination apparatus wherein the first and second sections are located beside the first section for providing access between the first and second sections. It would have been obvious to one of ordinary skill in the art at the time the invention was made to move the first and second sections beside one another, since it has been held that rearranging parts of a prior art structure involves only routing skill in the art. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

With respect to claim 26, Lueken discloses an apparatus containing at least one lamp (175) that is surrounded by a reflector means (165) and a control means for controlling at least the lamp (65).

Lueken does not explicitly disclose a housing having an outer casing formed within at least one opening which is covered by a diaphragm which is moisture permeable in an outward direction for transmission of moisture from the inside of the housing to the outside, but which is water tight in a direction from the outside to the inside.

DeGuisseppi discloses a diaphragm used within an electrical device wherein the diaphragm is placed over an opening which is covered by a diaphragm which is moisture permeable in an outward direction for transmission of moisture from the inside of the housing to the outside, but which is water tight in a direction from the outside to the inside (Column 3, Line 64-Column 4, Line 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the diaphragm of DeGuisseppi in the illumination apparatus of Lueken for the benefit of enabling moisture that may have leaked through a seal to direct moisture out of the device.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lueken and DeGuisseppi as applied to claim 14 above, and further in view of Rizkin, et al. (PG Pub 2004/0114355), hereafter referred to as Rizkin.

Lueken and DeGuisseppi do not explicitly disclose an apparatus wherein the light changer comprises means for changing the color of the light beam.

Rizkin discloses an apparatus wherein the light changer comprises means for changing the color of the light beam.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a color changing means since the courts have stated that matters relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art. *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947).

Allowable Subject Matter

Claims 22-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: There is no prior art that discloses either alone or in combination the claimed


limitations of a lamp chamber is open to air while allowing for a diaphragm to allow for moisture to be transmitted in an outward direction and the method of sealing the individual chambers within the in ground lighting device.

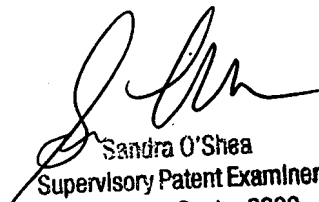
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen A. Manskar whose telephone number is (571) 270-1220. The examiner can normally be reached on Monday-Friday 7:30a.m.-5p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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